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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/586,119	06/02/2000	Michael D. Hamerski	55420USA9A.002	6205

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EXAMINER

CHANG, VICTOR S

ART UNIT PAPER NUMBER

1771

DATE MAILED: 05/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

AS-13

# Office Action Summary

Application No.

09/586,119

Applicant(s)

HAMERSKI, MICHAEL D.

Examiner

Victor S Chang

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9,11-22 and 24-34 is/are pending in the application.
- 4a) Of the above claim(s) 13,15-22, 24 and 26-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9,11,12,14 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Rejections not maintained are withdrawn.

### *Election/Restrictions*

3. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species A: an adhesive article comprising a stretch releasing adhesive tape, including claims 1-9, 11-12, 14 and 25.

Species B: an adhesive article comprising an adhesive layer, including claims 13, 15-22 and 24.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, "adhesive tape" is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with David Patchett on 5/15/03 a provisional election was made with traverse to prosecute the invention of Species A, claims 1-9, 11-12, 14 and 25. Affirmation of this election must be made by applicant in replying to this Office action. Claims 13-22 and 24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

4. Claims 1-9, 11-12, 14 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claims 1, 6, 7, etc. the Examiner reiterates (see section 6 of Paper No. 11) that the phrase "reduced adhesive properties" appears vague, indefinite and confusing. In particular, the Specification discloses that "reduced adhesive properties" refers to a

region with non-adhesive properties or adhesive properties less than the adhesive properties of the first adhesive regions (page 5, lines 12-13). As such, it is confusing to the Examiner as to the range of the adhesiveness of the "reduced adhesive properties".

In claim 1, lines 3-4, the phrases "top portion" and "bottom portion" are vague and indefinite, i.e., it is not clear to the Examiner the exact structural location of these elements, e.g., are they on the same side of the adhesive tape, or referring to different sides of the tape? Also, it is not clear as to the size and shape of the "portion".

Since claim 14 is dependent upon claim 13, the Examiner suggests to re-write claim 14 as independent claim and incorporate all the limitations of claim 13.

#### ***Response to Amendment***

5. Claims 1-9, 11-12, 14 and 25 are rejected under 35 U.S.C. 103(a) as being obvious over Bries et al. in view of Luhmann, substantially for the reasons set forth in each section 2 of Paper No. 3 and 5, together with the following additional observations.

With respect to Applicant's Response dated 11/19/2002 arguing that Bries teaches that the lower adhesion or non-adhesive portion is provided adjacent the second end of the tape opposite the manually engageable pull tab (page 4, first complete paragraph), and Luhmann also teaches adhesive tapes with reducing adhesive properties toward the end of the strip (page 4, third paragraph), the Examiner reiterates (page 3 of Paper No. 5) that Bries teaches that a release strip is preferably used to deaden the adhesive on the one side which is to be positioned adjacent the effective end of the object or the end of the surface to which the adhesive tape is to be

applied. With the use of such a release strip, the one side completely debonds from its adhered surface prior to the complete debonding of the other side (column 3, lines 4-9). Critically, in Fig. 4 and 5, Bries teaches that depending on the location of the release strip (30), or the end point of detachment, the tape preferentially releases from the surface first and cleanly (column 6, line 52 to column 7, line 32). Therefore, the critical mechanism of stretch releasing from the surface is to place the lower-adhesion portion at the end of the object or the end of the surface. As such, it would have been obvious to one skilled in the art to relocate the lower-adhesion portion to the opposite end of the adhesive article, motivated by the desire to be able to detach the adhesive article from the wall cleanly.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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VSC

May 28, 2003

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP 1900-  
1700

*Daniel Zinker*